



December 10, 1999

Ms. Judy Ponder
General Counsel
General Services Commission
1711 San Jacinto
P.O. Box 13047
Austin, Texas 78711-3047

OR99-3585

Dear Ms. Ponder:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129728.

The General Services Commission (the "commission") received a request for information regarding the "Tex-AN-2000" request for offer. You indicate that the interests of two third parties, AT&T and Southwestern Bell Telephone ("SWB"), are implicated by the release of the responsive information. You note that the responsive information provided by AT&T was the subject of an earlier request for decision. The previous request for decision was the subject of Open Records Letter No. 99-3517 (1999). The commission should rely on that decision in withholding or releasing the information provided to the commission by AT&T that is responsive to the current request for information.

You have additionally submitted to this office for review documents obtained from SWB. Without taking a position, you assert that sections 552.101 and 552.110 of the Government Code may except this information from public disclosure.

The commission informed SWB of the request and explained to SWB its opportunity to claim the exceptions to disclosure for the requested information, together with argument in support of those exceptions. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining that statutory predecessor to Government

Code section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exceptions in certain circumstances). As required by Government Code section 552.305(d), the notice letter informed SWB that it must provide its comments to this office within 10 business days of its receipt of the notice. SWB did not provide comments in response to this notice. As neither the commission nor SWB has asserted an exception to the Public Information Act or established why any exception to disclosure applies to the requested information, we conclude that the responsive information obtained from SWB must be released. Gov't Code § 552.006; *See* Open Records Decision No. 639(1996).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

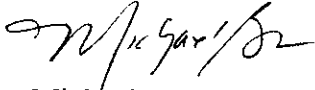
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. Burns".

Michael J. Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 129728

Encl. Submitted documents

cc: Ms. Glenda Roselle
2200 One America Center
600 Congress Ave.
Austin, Texas 78701
(w/o submitted documents; w/Open Records Letter No 99-3517 (1999))